

REMARKS

Claims 108-109, 114-117, 120-123 and 128-138 are pending in the application.

Claims 1-133 have been cancelled.

Applicants acknowledge with appreciation that claims 134 and 137 would be allowable if re-written in independent form.

Dependant claim 134, to which no rejections apply, has been rewritten as an independent claim incorporating the steps of claim 108. Accordingly, claim 108 has been cancelled.

Dependant claim 137, to which no rejections apply, has been rewritten as an independent claim incorporating the steps of claim 108.

Claims dependant on canceled claims 108 and 109 (claims 109 -133, 135-136 and 138) have been canceled and re-written as new claims dependant on claims 134 and 135 to maintain the consistency of the claim numbering. Accordingly, canceled claims 109 -133, 135-136 and 138 correspond to new dependant claims 145-159.

Accordingly, claims 134-138 and claims 145-159 will be pending upon entry of this amendment.

The foregoing claim amendments should not be construed as an acquiescence to any of the Examiner's rejections and have been made solely to expedite prosecution.

No new issues have been raised and no additional search should be required based on the foregoing amendments. Accordingly, Applicants respectfully request that the amendments be entered. Applicants reserve the right to pursue the claims as originally filed in this or a separate application. No new matter has been added.

Rejection of Claim 117 Under 35 U.S.C. § 112, First Paragraph

Claim 117 (now claim 149) is rejected as failing "to comply with the written description requirement." In particular, the Examiner is of the opinion that claim 117 "contains new matter by reciting 'about' the percentage value."

While in no way acquiescing to the Examiner's rejection, and solely in the interest of expediting prosecution, Applicants have amended claim 149 to delete the word "about," thereby rendering the rejection moot. Accordingly, Applicants respectfully request the Examiner to

Serial No.: 08/300510

-7-

Group Art Unit: 1644

reconsider and withdraw this rejection.

Rejection of Claims 108-109, 114-117, 120-123, 128-133 and 138

Under 35 U.S.C. § 103(a)

Claims 108-109, 114-117, 120-123, 128-133 and 138 are rejected under 35 U.S.C. §103(a) "as being unpatentable over Gefter et al. (WO93/1978) in light of Briner et al." In particular, the Examiner is of the opinion that the "the PI defined by Gefter et al., reflects the percentage of individuals that show positivity responses (as measured by a T-cell stimulation index)." From this, the Examiner concludes that "it would have been obvious to set a lower limit upon the 'PI' to assure that a substantial portion of individuals may be effectively treated."

While in no way acquiescing to the Examiner's rejection, and solely in the interest of expediting prosecution, Applicants have cancelled claim 108. Therefore, this rejection is moot as it pertains to claim 108.

Dependant claims 108-109, 114-117, 120-123, 128-133 and 138 have been re-written to depend from independent claims 134 or 137 to which this rejection does not apply. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 108-109, 114-117, 120-123, 128-133 under 35 U.S.C. § 103(a).

Rejection of Claims 108-109, 114-117, 120-123, 128-133 and 138

Under 35 U.S.C. § 103(a)

Claims 108-109, 114-117, 120-123, 128-133 and 138 are rejected under 35 U.S.C. § 103(a) "as being unpatentable over Gefter et al. in light of Briner et al. and in view of Griffith et al. (US5,710,126)." In particular, the Examiner is of the opinion that "Griffith et al. teach that it was known to select therapeutic peptides according to both a stimulation index and a positivity index." Furthermore, the Examiner states that Applicant "has no data demonstrating that '150' is better than '100' or '200' taught by Griffith et al."

While in no way acquiescing to the Examiner's rejection, and solely in the interest of expediting prosecution, Applicants have cancelled claim 108. Therefore, this rejection is moot as it pertains to claim 108.

Dependant claims 108-109, 114-117, 120-123, 128-133 and 138 have been re-written to depend from independent claims 134 or 137 to which this rejection does not apply. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 108-109, 114-117, 120-123, 131, 133 and 138 under 35 U.S.C. § 103(a).

Rejection of Claims 108-109, 114-117, 120-123, 129, 131, 133 and 138

Under 35 U.S.C. § 103(a)

Claims 108-109, 114-117, 120-123, 131, 133 and 138 are rejected under 35 U.S.C. § 103(a), "as being unpatentable over Rogers et al. (WO93/08200) as evidenced by Briner et al. and in view of Griffith et al. (US5,710,126)." In particular, the Examiner is of the opinion that Rodgers et al. teaches "the therapeutic use of peptides, which have a T cell stimulation index of at least 3.5." Furthermore, the Examiner states that Griffith et al. teach to select for "therapeutic peptides according to a stimulation index and positivity index."

While in no way acquiescing to the Examiner's rejection, and solely in the interest of expediting prosecution, Applicants have cancelled claim 108. Therefore, this rejection is moot as it pertains to claim 108.

Dependant claims 108-109, 114-117, 120-123, 128-133 and 138 have been re-written to depend from independent claims 134 or 137 to which this rejection does not apply. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claim 136 under 35 U.S.C. § 103(a).

Rejection of Claims 136 Under 35 U.S.C. § 103(a)

Claim 136 is rejected under 35 U.S.C. § 103(a) "as being unpatentable over Gefter et al. in light of Briner et al. as applied to claim 108 and in further in view of Litwin et al." In particular, the Examiner is of the opinion that Litwin et al. show that, "in treating allergic patients with a mixture of peptides, it was known to increase the subcutaneously administered doses gradually, during initial treatment regimen." The Examiner further states, "it would have been obvious to likewise administer the peptides ... according to a regimen that would permit one to check for adverse reactions to the treatment before giving the highest doses."

While in no way acquiescing to the Examiner's rejection, and solely in the interest of expediting prosecution, Applicants have cancelled claim 108. Therefore, this rejection is moot as it pertains to claim 108.

Dependant claims 108-109, 114-117, 120-123, 128-133 and 138 have been re-written to depend from independent claims 134 or 137 to which this rejection does not apply. Therefore, this rejection is now moot.

Rejection of Claims 136 Under 35 U.S.C. § 103(a)

Claim 136 is rejected under 35 U.S.C. § 103(a) "as being unpatentable over Gefter et al. in light of Briner et al. and in view of Griffith et al. as applied to claim 108, and in further in view of Litwin et al."

As amended, claim 136 depends from claim 134 or 145, to which this rejection does not apply. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claim 136 under 35 U.S.C. § 103(a).

Rejection of Claims 136 Under 35 U.S.C. § 103(a)

Claim 136 under 35 U.S.C. § 103(a) "as being unpatentable over Rogers et al. in light of Briner et al. and in view of Griffith et al. as applied to claim 108, and in further in view of Litwin et al."

As amended, claim 136 depends from claim 134 or 145, to which this rejection does not apply. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claim 136 under 35 U.S.C. § 103(a).

Serial No.: 08/300510

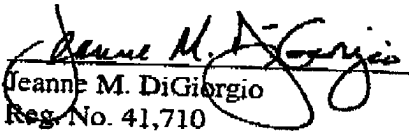
-10-

Group Art Unit: 1644

CONCLUSION

Based on the foregoing, reconsideration and allowance of all the pending claims is respectfully requested. If a telephone conversation with Applicants' Attorney would expedite prosecution of the above-identified application, the Examiner is urged to call the undersigned at (617) 227-7400.

Respectfully submitted,


Jeanne M. DiGiorgio
Reg. No. 41,710
Attorney for Applicants

LAHIVE & COCKFIELD, LLP
28 State Street
Boston, MA 02109
Tel. (617) 227-7400

Dated: January 12, 2003